

February 15, 2005

To: Victor Ketellapper  
Remedial Project Manager  
Vasquez Boulevard/Interstate 70 Superfund Site  
U.S. Environmental Protection Agency, Region 8 (8EPR-SR)  
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Denver, CO 80202-2466

From: Michael J. Kosnett, MD, MPH  
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Re: Proposed revision of lead paint abatement plan for VBI70

As technical advisor to the CEASE Community Coalition, I am writing to request revision of the proposed methodology for selecting homes in the VBI70 project eligible for exterior lead based paint abatement. This methodology was summarized in your January 13, 2005 memorandum to the VBI70 Working Group, and further discussed at the recent Working Group meeting of January 27, 2005.

As per my prior comments to the public record dated June 25, 2003, I strongly support the overall policy decision, set forth in the VBI70 Feasibility Study Report Addendum of December 20, 2002, that "Abatement of exterior lead-paint would be performed under this program if soils at a property are remediated and paint abatement is required to protect the remedy." As noted in a recent report prepared for EPA by the Environmental Law Institute, "The CERCLA clean-up provisions state a strong preference for clean-ups that are permanently protective of public health. This preference, along with other stated goals, is consistent with ensuring that protective remedies are selected for sites in communities of color and low-income communities." <sup>1</sup> [emphasis added].

Clean (i.e. "low lead") soil placed on a remediated property within 2 meters of an exterior wall coated with deteriorating lead-based paint is in clear danger of becoming contaminated with lead dust or debris that may be dislodged from the

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<sup>1</sup> Environmental Law Institute. 2001. Opportunities for Advancing Environmental Justice: An Analysis of U.S. EPA Statutory Authorities. Washington, DC: Environmental Law Institute  
[<http://es.epa.gov/oeca/main/ej/docs/eliopportunities4ej.pdf>]

wall in the course of normal weathering or routine homeowner activities. In determining whether the quantity of lead contained in a painted wall endangers the remedy, EPA should consider the area of soil located within 2 meters of that wall, *because it is this soil that is predominantly at risk*. Specifically, EPA should 1) determine the quantity of lead in a deteriorating painted wall (lead content in mg/cm<sup>2</sup> multiplied by the surface area of the wall), and 2) calculate the lead concentration that would result if this quantity of lead were added to the top 2 inches of remediated soil extending two meters from the wall. If the addition of the lead would cause the lead concentration of this amount of remediated soil to exceed 400 ppm, abatement of the lead paint would be warranted.

Under the proposed methodology set forth in your January 13, 2005 memorandum, EPA would consider the entire area of all the remediated soil placed on a property, rather than the soil located within 2 meters of the wall. This approach is inadvisable for two key reasons. First, for many of the VBI70 properties, it is unreasonable to consider that lead paint from a deteriorating painted wall would impact the entire surface area of the yard rather than be concentrated in the soil located within 2 meters of the wall. Second, the methodology proposed in the memorandum would tend to favor lead paint abatement on properties with smaller yards. For example, if two distinct properties contained houses of the same size coated with the same amount of deteriorated lead paint, it is conceivable that the property with a smaller yard might qualify for lead paint abatement, while the property with a larger yard would not qualify. Because of this plan, children who played in the soil adjacent to the walls of the house with the large yard would remain vulnerable to a risk that would be eliminated on the property with a small yard. I respectfully suggest that this represents an inconsistent approach to risk reduction.

Thank you for considering the revision that I have proposed. I would be pleased to discuss this alternative with you further.